

EXHIBIT A

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CITY AND COUNTY OF SAN FRANCISCO,
10 AND PAUL MIYAMOTO, IN HIS OFFICIAL
CAPACITY AS SAN FRANCISCO SHERIFF
11

12 UNITED STATES DISTRICT COURT
13
14 NORTHERN DISTRICT OF CALIFORNIA
15
16 OAKLAND DIVISION

17 JOSHUA SIMON, DAVID BARBER, AND
JOSUE BONILLA, INDIVIDUALLY AND
ON BEHALF OF ALL OTHERS
18 SIMILARLY SITUATED, DIANA BLOCK,
AN INDIVIDUAL AND COMMUNITY
19 RESOURCE INITIATIVE, AN
ORGANIZATION,

20 Plaintiffs,

21 vs.

22 CITY AND COUNTY OF SAN
23 FRANCISCO, PAUL MIYAMOTO, IN HIS
OFFICIAL CAPACITY AS SAN
24 FRANCISCO SHERIFF,

25 Defendants.
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27
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Case No. 4:22-cv-05541 JST

**DEFENDANT CITY AND COUNTY OF SAN
FRANCISCO'S RESPONSES TO PLAINTIFFS'
INTERROGATORIES, SET ONE**

Trial Date: Not Set

1 PROPOUNDING PARTY: PLAINTIFFS JOSHUA SIMON, DAVID BARBER, et al.
 2 RESPONDING PARTY: DEFENDANT CITY AND COUNTY OF SAN FRANCISCO
 3 SET NUMBER: ONE (1)
 4

5 Pursuant to Rule 33 of the Federal Rules of Civil Procedure, Defendant the CITY AND
 6 COUNTY OF SAN FRANCISCO ("City") responds and objects as follows to Plaintiffs JOSHUA
 7 SIMON, DAVID BARBER, and JOSUE BONILLA's Interrogatories, Set One.

8 **PRELIMINARY STATEMENT**

9 The City incorporates the following Preliminary Statement into each of its responses as if fully
 10 set forth therein. As explained in Defendants' Motion to Dismiss and Opposition to Plaintiffs' Motion
 11 for a Preliminary Injunction, the City is not an appropriate defendant in this lawsuit. ECF Nos. 24, 31.
 12 The Pretrial Electronic Monitoring ("PTM") Program is a state function of the San Francisco
 13 Sheriff's Office and is authorized and governed by the Superior Court of the State of California,
 14 County of San Francisco. By responding to Plaintiffs' interrogatories or producing documents, the
 15 City does not waive this distinction between the state and local functions of the San Francisco
 16 Sheriff's Office.

17 Before filing this lawsuit, Plaintiffs did not follow the appropriate process to challenge the
 18 conditions of pretrial release. They did not raise their assertions with the state criminal court or bring a
 19 habeas petition. By responding to Plaintiffs' interrogatories or producing documents, the City does not
 20 waive its arguments that Plaintiffs were not permitted to bring this action. Nor does the City waive its
 21 arguments for lack of standing and mootness of Plaintiffs' claims or its arguments that, even if their
 22 claims might properly be brought as part of this action, Plaintiffs have failed to state a claim as to any
 23 of their asserted constitutional violations.

24 The City's responses to the following interrogatories are made to the best of its present
 25 knowledge, information, and belief. The responses are at all times subject to such additional or
 26 different information as discovery or further investigation may disclose and, while based on the City's
 27 present state of recollection, are subject to such refreshing of recollection, and such additional
 28 knowledge of facts, as may result from discovery or further investigation. Therefore, the following

1 responses and objections are given without prejudice to the City's right to rely on subsequently
 2 discovered or recalled information and evidence. The City specifically reserves the right to make use
 3 of, or to introduce at any hearing and at trial, information and/or documents responsive to the
 4 following interrogatories discovered or recalled subsequent to the date of these responses, including,
 5 without limitation, any information or documents obtained in discovery or by further investigation of
 6 this matter.

7 **GENERAL OBJECTIONS**

8 1. The City objects to each interrogatory to the extent that it may be construed as calling
 9 for information that is subject to any claim of privilege, including, without limitation, the attorney-
 10 client privilege, attorney work product doctrine, deliberative process privilege, and official
 11 information privilege. In responding to these interrogatories, the City in no way waives any such
 12 privilege or protection.

13 2. The City objects that several of the interrogatories call for information subject to
 14 confidentiality and privacy protections, including statutory confidentiality requirements, or involving
 15 sensitive criminal investigative information. Some interrogatories call for CLETS/CORI information.
 16 Before the City provides this confidential and sensitive information to Plaintiffs, the Court must enter
 17 a sufficient stipulated protective order including an authorization for the City to produce
 18 CLETS/CORI information to Plaintiffs' counsel without redaction and placing the included
 19 CLETS/CORI state law obligations on Plaintiffs and their counsel for such information produced to
 20 them.

21 3. The City objects to providing information about all participants in the Pretrial
 22 Electronic Monitoring ("PTM") Program given that the Court has not granted Plaintiffs' Motion for
 23 Class Certification and Defendants have opposed class certification. Producing class-wide information
 24 at this point is not proportional or procedurally appropriate.

25 4. Plaintiffs' interrogatories do not specify the department or departments from which
 26 they seek information. The City objects to providing information in the possession, custody, or control
 27 of departments other than the San Francisco Sheriff's Office. The City has more than one hundred
 28 departments, and it is not possible to provide information across all of them. Based on the nature of

1 this lawsuit, the City believes it is appropriate to confine its search for responsive documents and
2 information to the San Francisco Sheriff's Office.

3 5. The City reserves all objections to the competency, relevancy, materiality, privilege,
4 and/or admissibility as evidence of the following responses, and any document or thing identified in
5 response to the following interrogatories at any subsequent proceeding in, or trial of, this and any other
6 matter for any purpose whatsoever.

7 6. The City objects to each interrogatory to the extent it calls for information beyond the
8 scope of discovery under the Federal Rules of Civil Procedure, Northern District of California Local
9 Rules, or the Court's orders.

10 4. Subject to and without waiving the above general objections and privileges, the City
11 responds to the specific interrogatories as follows:

12 **RESPONSES TO INTERROGATORIES**

13 **INTERROGATORY NO. 1:**

14 IDENTIFY each request for EM PROGRAM location data of PLAINTIFFS, whether through
15 an Electronic Monitoring Location Request or otherwise.

16 **RESPONSE TO INTERROGATORY NO. 1:**

17 The City incorporates the foregoing Preliminary Statement and General Objections as though
18 fully set forth herein, including but not limited to its objections associated with the City not being an
19 appropriate defendant in this case or recipient of this interrogatory given that this litigation involves a
20 program that the San Francisco Sheriff's Office administers in its state capacity at the direction of the
21 Superior Court of the State of California and its objections associated with Plaintiffs lacking standing
22 to bring this lawsuit. The City further objects that the phrase "request for EM PROGRAM location
23 data" is vague. The City interprets the phrase to refer to requests by members of law enforcement
24 agencies other than the San Francisco Sheriff's Office for Sentinel ankle monitor-generated GPS data
25 for a PTEM Program participant.

26 Subject to and without waiving the foregoing objections, the City responds as follows: The
27 City is not aware of any request for PTEM location data of Plaintiffs.
28

INTERROGATORY NO. 2:

For each request for EM PROGRAM location data identified in response to Interrogatory No. 1, state whether such request was granted or denied.

RESPONSE TO INTERROGATORY NO. 2:

The City incorporates the foregoing Preliminary Statement and General Objections as though fully set forth herein, including but not limited to its objections associated with the City not being an appropriate defendant in this case or recipient of this interrogatory given that this litigation involves a program that the San Francisco Sheriff's Office administers in its state capacity at the direction of the Superior Court of the State of California and its objections associated with Plaintiffs lacking standing to bring this lawsuit. The City further objects that the phrase "request for EM PROGRAM location data" is vague. The City interprets the phrase to refer to requests by members of law enforcement agencies other than the San Francisco Sheriff's Office for Sentinel ankle monitor-generated GPS data for a PTEM Program participant.

Subject to and without waiving the foregoing objections, the City responds as follows: The City is not aware of a request for PTEM location data of Plaintiffs.

INTERROGATORY NO. 3:

State the number of PERSONS enrolled in the EM PROGRAM as of September 28, 2022.

RESPONSE TO INTERROGATORY NO. 3

The City incorporates the foregoing Preliminary Statement and General Objections as though fully set forth herein, including but not limited to its objections associated with the City not being an appropriate defendant in this case or recipient of this interrogatory given that this litigation involves a program that the San Francisco Sheriff's Office administers in its state capacity at the direction of the Superior Court of the State of California and its objections associated with Plaintiffs lacking standing to bring this lawsuit. The City further objects that this interrogatory relates to Plaintiffs' putative class rather than their individual claims, and no class has been certified.

Subject to and without waiving the foregoing objections, the City responds as follows: 346 people were enrolled in the PTEM Program as of September 28, 2022.

INTERROGATORY NO. 4:

State the number of requests for EM PROGRAM location data YOU have received from August 1, 2019 through the present.

RESPONSE TO INTERROGATORY NO. 4:

The City incorporates the foregoing Preliminary Statement and General Objections as though fully set forth herein, including but not limited to its objections associated with the City not being an appropriate defendant in this case or recipient of this interrogatory given that this litigation involves a program that the San Francisco Sheriff's Office administers in its state capacity at the direction of the Superior Court of the State of California and its objections associated with Plaintiffs lacking standing to bring this lawsuit. The City further objects that the phrase "requests for EM PROGRAM location data" is vague. The City interprets the phrase to refer to requests by members of law enforcement agencies other than the San Francisco Sheriff's Office for Sentinel ankle monitor-generated GPS data for a PTEM Program participant. The City additionally objects to the extent "YOU" is intended to have a different meaning than the San Francisco Sheriff's Office. The City will respond with respect to the San Francisco Sheriff's Office. The City further objects that this interrogatory relates solely to the putative class and sharing of PTEM data with other law enforcement, on which motions are pending.

Subject to and without waiving the foregoing objections, the City responds as follows: The City does not track the number of requests for PTEM location data that it receives. That number can best be determined from review of Electronic Monitoring Location Requests. The City is willing to produce Electronic Monitoring Location Requests to Plaintiffs if Plaintiffs' Motion for Class Certification is granted, if Plaintiffs' assertion that sharing of location data for PTEM Program participants with other law enforcement agencies is unconstitutional remains in the case, and once an appropriate protective order is in place. The burden of deriving or ascertaining the answer to this interrogatory will be substantially the same for either party. *See* Fed. R. Civ. P. 33(d).

INTERROGATORY NO. 5:

IDENTIFY each request for EM PROGRAM location data, whether through an Electronic Monitoring Location Request or otherwise, from August 1, 2019 through the present.

RESPONSE TO INTERROGATORY NO. 5:

The City incorporates the foregoing Preliminary Statement and General Objections as though fully set forth herein, including but not limited to its objections associated with the City not being an appropriate defendant in this case or recipient of this interrogatory given that this litigation involves a program that the San Francisco Sheriff's Office administers in its state capacity at the direction of the Superior Court of the State of California and its objections associated with Plaintiffs lacking standing to bring this lawsuit. The City further objects that the phrase "request for EM PROGRAM location data" is vague. The City interprets the phrase to refer to requests by members of law enforcement agencies other than the San Francisco Sheriff's Office for Sentinel ankle monitor-generated GPS data for a PTEM Program participant. The City additionally objects to the extent the interrogatory is intended to seek requests directed to any department other than the San Francisco Sheriff's Office. The City will respond with respect to the San Francisco Sheriff's Office. The City further objects that this interrogatory relates solely to the putative class and sharing of PTEM data with other law enforcement, on which motions are pending.

Subject to and without waiving the foregoing objections, the City responds as follows: The City is willing to produce Electronic Monitoring Location Requests to Plaintiffs if Plaintiffs' Motion for Class Certification is granted, if Plaintiffs' assertion that sharing of location data for PTEM Program participants with other law enforcement agencies is unconstitutional remains in the case, and once an appropriate protective order is in place. The burden of deriving or ascertaining the answer to this interrogatory will be substantially the same for either party. *See* Fed. R. Civ. P. 33(d).

INTERROGATORY NO. 6:

For each request for EM PROGRAM location data identified in response to Interrogatory No. 5, state whether such request was granted or denied.

RESPONSE TO INTERROGATORY NO. 6:

The City incorporates the foregoing Preliminary Statement and General Objections as though fully set forth herein, including but not limited to its objections associated with the City not being an appropriate defendant in this case or recipient of this interrogatory given that this litigation involves a program that the San Francisco Sheriff's Office administers in its state capacity at the direction of the

Superior Court of the State of California and its objections associated with Plaintiffs lacking standing to bring this lawsuit. The City further objects that the phrase “request for EM PROGRAM location data” is vague. The City interprets the phrase to refer to requests by members of law enforcement agencies other than the San Francisco Sheriff’s Office for Sentinel ankle monitor-generated GPS data for a PTEM Program participant. The City additionally objects to the extent the interrogatory is intended to seek requests directed to any department other than the San Francisco Sheriff’s Office. The City will respond with respect to the San Francisco Sheriff’s Office. The City further objects that this interrogatory relates solely to the putative class and sharing of PTEM data with other law enforcement, on which motions are pending.

Subject to and without waiving the foregoing objections, the City responds as follows: The San Francisco Sheriff’s Office does not separately track whether requests for PTEM location data are granted or denied. Under its policies, the San Francisco Sheriff’s Office approves requests for PTEM location data submitted via an appropriate Electronic Monitoring Location Request form that comply with Sheriff’s Office policy. Approvals or provision of information may be noted on the bottom part of the form. If a location request is submitted in an emergency situation, the San Francisco Sheriff’s Office requires the requestor to submit a properly completed Electronic Monitoring Location Request Form once the emergency has ended. The City is willing to produce Electronic Monitoring Location Requests to Plaintiffs if Plaintiffs’ Motion for Class Certification is granted, if Plaintiffs’ assertion that sharing of location data for PTEM participants with other law enforcement agencies is unconstitutional remains in the case, and once an appropriate protective order is in place. The burden of deriving or ascertaining the answer to this interrogatory will be substantially the same for either party. *See* Fed. R. Civ. P. 33(d).

INTERROGATORY NO. 7:

IDENTIFY each authorization, if any, that the San Francisco Board of Supervisors has made to the SFSO pursuant to California Penal Code section 1203.018 regarding the EM PROGRAM.

RESPONSE TO INTERROGATORY NO. 7:

The City incorporates the foregoing Preliminary Statement and General Objections as though fully set forth herein, including but not limited to its objections associated with the City not being an

appropriate defendant in this case or recipient of this interrogatory given that this litigation involves a program that the San Francisco Sheriff's Office administers in its state capacity at the direction of the Superior Court of the State of California and its objections associated with Plaintiffs lacking standing to bring this lawsuit. The City further objects that the Plaintiffs' definitions of "IDENTIFY" do not make sense for this interrogatory. The City will respond with respect to the ordinary meaning of "identify." The City additionally objects to the extent the interrogatory implies that authorization from the San Francisco Board of Supervisors is required for or is an aspect of the PTEM Program. The City will respond with respect to whether the San Francisco Board of Supervisors has passed an ordinance for creation of a pretrial electronic monitoring program under California Penal Code section 1203.018.

Subject to and without waiving the foregoing objections, the City responds as follows: The San Francisco Board of Supervisors has not passed an ordinance for creation of a pretrial electronic monitoring program under California Penal Code section 1203.018. The San Francisco Sheriff's Office operates the PTEM Program based on the orders of the Superior Court of the State of California, County of San Francisco.

INTERROGATORY NO. 8:

State all facts in support of YOUR contention that "[m]any criminal defendants commit new crimes while wearing a GPS device" as stated in the JUDSON DECLARATION.

RESPONSE TO INTERROGATORY NO. 8:

The City incorporates the foregoing Preliminary Statement and General Objections as though fully set forth herein, including but not limited to its objections associated with the City not being an appropriate defendant in this case or recipient of this interrogatory given that this litigation involves a program that the San Francisco Sheriff's Office administers in its state capacity at the direction of the Superior Court of the State of California and its objections associated with Plaintiffs lacking standing to bring this lawsuit. The City further objects that it is not possible to identify all of the very large number of times criminal defendants have committed new crimes while wearing a GPS device, demonstrating the referenced contention. Defendants have provided examples in declarations already in this case. The City believes that many witnesses involved in the criminal justice system, from the San Francisco Sheriff's Office and otherwise, have facts supporting the referenced contention. The

City additionally objects to this contention interrogatory as premature to the extent it calls for a list of demonstrations of the referenced contention beyond the examples already provided in Lieutenant Judson's declarations. The City relatedly objects that new developments supporting this contention occur frequently. The City is willing to meet and confer with Plaintiffs about updating its response at an appropriate time but objects to doing so continuously during this case as unduly burdensome. The City additionally objects to providing privileged information in response to this interrogatory, including information subject to attorney-client, work product, deliberative process, or official information privilege protections. The City also objects to providing expert opinion evidence relevant to this interrogatory before the period for disclosure of expert opinions. The City further objects to providing law enforcement sensitive and confidential information in support of this interrogatory. Confidential information can be provided once an appropriate protective order is in place including provisions allowing provision of CORI/CLETS information to Plaintiffs and/or their counsel.

Subject to and without waiving the foregoing objections, the City responds as follows: There are numerous examples of PTEM participants committing new crimes while wearing a GPS device. Compiling a complete list of all such examples would not be feasible given the large number and continuing addition of new such cases. S.F. Police Report No. 220378172 reflects that Mr. Bonilla is among those who have at least allegedly committed crimes while wearing a GPS device. Lieutenant Judson identified as examples many such situations including those involving Lorenzo Grant, Joseph Atchan, Erlin Romero, Damanuel Hightower, Greg Morten, Vermond Jones, Oscar Centeno, Oscar Cerrato, and Michele Garabato.

INTERROGATORY NO. 9:

State all facts in support of YOUR contention that a court ordered consent to four-way searches as a condition of any putative class member's participation in the EM PROGRAM.

RESPONSE TO INTERROGATORY NO. 9:

The City incorporates the foregoing Preliminary Statement and General Objections as though fully set forth herein, including but not limited to its objections associated with the City not being an appropriate defendant in this case or recipient of this interrogatory given that this litigation involves a program that the San Francisco Sheriff's Office administers in its state capacity at the direction of the

1 Superior Court of the State of California and its objections associated with Plaintiffs lacking standing
2 to bring this lawsuit. Plaintiffs here seek information about a PTEM program rule having decided not
3 to challenge this program rule in front of the judges in their criminal cases. This failure to raise the
4 program rule with the criminal court suggests Plaintiffs and their counsel understood the program rule
5 to be part of the conditions of release from pretrial detention. The City further objects to this
6 contention interrogatory as premature given the current phase of the case. The City responds with
7 respect to its current understanding without prejudice to its right to update the response at an
8 appropriate time. The City additionally objects to providing privileged information in response to this
9 interrogatory, including information subject to attorney-client, work product, deliberative process, or
10 official information privilege protections. The City also objects to providing expert opinion evidence
11 relevant to this interrogatory before the period for disclosure of expert opinions. The City additionally
12 objects that this interrogatory seeks information from the Superior Court of the State of California not
13 within the possession of the San Francisco Sheriff's Office. The City responds with respect to the
14 understanding of the San Francisco Sheriff's Office in implementing the orders of the Superior Court
15 here. The City further objects that the current order releasing criminal defendants from custody subject
16 to participation in the PTEM Program makes express the requirement of consent to four-way searches.
17 Even if there were some uncertainty about whether the scope of the Fourth Amendment waiver
18 required for participation in the PTEM Program included a four-way search condition before, the
19 revised order dispels any such uncertainty.

20 Subject to and without waiving the foregoing objections, the City responds as follows: At all
21 relevant times, the Superior Court's order releasing pretrial criminal defendants from custody subject
22 to their participation in the PTEM Program has acknowledged the defendants' waiver of their Fourth
23 Amendment rights for the four-way search condition. Consistent with that, PTEM Program
24 participants, including Plaintiffs, sign the OR Release order in court and the PTEM Program Rules and
25 Contract at the Community Programs Office. PTEM Program participants now also sign an order
26 releasing them from custody subject to participation in the PTEM Program that includes the Fourth
27 Amendment waiver and an express reference to the four-way search condition. Outside of court, the
28 San Francisco Public Defender's Office has been a participant in discussions with the Superior Court,

District Attorney's Office, and Sheriff's Office regarding the PTEM Program including the four-way search condition. Court participants including criminal defendants' counsel and defendants receive a copy of the PTEM Order. Criminal defendants and their counsel must raise any concerns with conditions of pretrial release with the state criminal court. No Plaintiff and few other criminal defendants appear to have done so. To the City's knowledge, judges have rejected attempts to eliminate the four-way search condition when it is contested. The San Francisco Sheriff's Office is not in a position to question the validity of the Fourth Amendment waiver entered by the criminal court. Plaintiffs needed to direct the concerns they raise here about the validity of the Fourth Amendment waiver to the criminal court in the first instance.

INTERROGATORY NO. 10:

IDENTIFY all PERSONS who assisted in drafting Rule 5 of the PROGRAM RULES.

RESPONSE TO INTERROGATORY NO. 10:

The City incorporates the foregoing Preliminary Statement and General Objections as though fully set forth herein, including but not limited to its objections associated with the City not being an appropriate defendant in this case or recipient of this interrogatory given that this litigation involves a program that the San Francisco Sheriff's Office administers in its state capacity at the direction of the Superior Court of the State of California and its objections associated with Plaintiffs lacking standing to bring this lawsuit. The City further objects to the definition of "IDENTIFY" to the extent it would require the City to provide contact information for its employees and former employees, who should be contacted through counsel for the City. The City additionally objects that it is unduly burdensome, likely impossible, and would serve no purpose to identify all individuals going back to the 1980s who were involved in drafting the referenced program rule. The City further objects that it is unduly burdensome to identify by name all individuals outside of the San Francisco Sheriff's Office with input on the referenced program rule. The City identifies the names of individuals at the San Francisco Sheriff's Office in more recent years involved with the drafting of the four-way search condition in the program rules. The City additionally objects that "assisted with drafting" is vague and responds with respect to individuals involved with the drafting of the program rule reflecting a four-way search condition.

Subject to and without waiving the foregoing objections, the City responds as follows: A four-way search condition has been a component of the court-authorized pretrial monitoring program since at least the 1980s, and it is therefore not feasible to identify all people who were involved in drafting what is now Rule 5 of the Program Rules. In more recent years, outside of the San Francisco Sheriff's Office, people with input on Rule 5 of the Program Rules have included judges and staff of the Superior Court of the State of California, County of San Francisco; members of the San Francisco Public Defender's Office; and members of the San Francisco District Attorney's Office. Within the San Francisco Sheriff's Office, individuals involved in drafting Rule 5 of the Program Rules have included Undersheriff Katherine Johnson; Chief Deputies Michele Fisher, Kevin Fisher-Paulson, and Lisette Adams; Parole Director Kevin Foster; Captains Alejandro Cabebe and Stephanie Colmenero; Lieutenants Sara O'Malley, Dwight Gunn, Jonathan Kuhns, and Phillip Judson; Sheriff's Deputies including Deputies Ngawang Bista and David Campillo; and Chief Counsel Margaret Baumgartner.

INTERROGATORY NO. 11:

IDENTIFY all PERSONS who assisted in drafting Rule 13 of the PROGRAM RULES.

RESPONSE TO INTERROGATORY NO. 11:

The City incorporates the foregoing Preliminary Statement and General Objections as though fully set forth herein, including but not limited to its objections associated with the City not being an appropriate defendant in this case or recipient of this interrogatory given that this litigation involves a program that the San Francisco Sheriff's Office administers in its state capacity at the direction of the Superior Court of the State of California and its objections associated with Plaintiffs lacking standing to bring this lawsuit. The City further objects to the definition of "IDENTIFY" to the extent it would require the City to provide contact information for its employees and former employees, who should be contacted through counsel for the City. The City additionally objects that it is unduly burdensome to identify by name all individuals outside of the San Francisco Sheriff's Office with input on the referenced program rule. The City identifies the names of individuals at the San Francisco Sheriff's Office in more recent years involved with the drafting of the program rule letting PTEM Program participants know that their GPS data may be shared with other law enforcement agencies. The City additionally objects that "assisted with drafting" is vague and responds with respect to individuals

involved with the drafting of the program rule reflecting that participants' GPS data may be shared with other law enforcement agencies. The City further objects to the interrogatory to the extent it misrepresents the role of the program rule in providing transparency to PTEM Program participants about the potential sharing of GPS data with other law enforcement agencies.

Subject to and without waiving the foregoing objections, the City responds as follows: Outside of the San Francisco Sheriff's Office, people with input on Rule 13 of the Program Rules have included judges and staff of the Superior Court of the State of California, County of San Francisco; members of the San Francisco Public Defender's Office; and members of the San Francisco District Attorney's Office. Within the San Francisco Sheriff's Office, individuals involved in drafting Rule 13 of the Program Rules have included Undersheriff Katherine Johnson; Chief Deputies Michele Fisher, Kevin Fisher-Paulson, and Lisette Adams; Parole Director Kevin Foster; Captains Alejandro Cabebe, and Stephanie Colmenero; Lieutenants Sara O'Malley, Dwight Gunn, Jonathan Kuhns, and Phillip Judson; Sheriff's Deputies including Deputies Ngawang Bista and David Campillo; and Chief Counsel Margaret Baumgartner.

INTERROGATORY NO. 12:

State all facts supporting YOUR contention that Rule 5 of the PROGRAM RULES is "necessary" to the EM PROGRAM, as stated in YOUR MOTION TO DISMISS.

RESPONSE TO INTERROGATORY NO. 12:

The City incorporates the foregoing Preliminary Statement and General Objections as though fully set forth herein, including but not limited to its objections associated with the City not being an appropriate defendant in this case or recipient of this interrogatory given that this litigation involves a program that the San Francisco Sheriff's Office administers in its state capacity at the direction of the Superior Court of the State of California and its objections associated with Plaintiffs lacking standing to bring this lawsuit. Plaintiffs here seek information about the importance of a PTEM program rule having decided not to challenge this program rule in front of the judges in their criminal cases. This failure to raise the program rule with the criminal court suggests Plaintiffs and their counsel understood the program rule to be part of the conditions of release from pretrial detention. The City further objects that the interrogatory does not accurately quote the Motion to Dismiss. The City

1 responds with respect to its understanding of the importance of including Program Rule 5 as part of the
2 PTEM Program. The City additionally objects that this contention interrogatory is premature given the
3 current status of this case. The City responds with respect to its current understanding. Additional
4 relevant facts will emerge as this case continues. The City additionally objects to providing privileged
5 information in response to this interrogatory, including information subject to attorney-client, work
6 product, deliberative process, or official information privilege protections. The City also objects to
7 providing expert opinion evidence relevant to this interrogatory before the period for disclosure of
8 expert opinions. The City further objects to the extent the interrogatory misrepresents the process by
9 which participants in the criminal justice system in San Francisco have conferred regarding the
10 program rules.

11 Subject to and without waiving the foregoing objections, the City responds as follows: The San
12 Francisco Sheriff's Office or other peace officers at its direction must be able to search PTEM
13 participants to ensure they are complying with the terms of the court's order on their pretrial release
14 and the PTEM Program. These can include, for example, conditions prohibiting weapons. The four-
15 way search condition allows the San Francisco Sheriff's Office to determine what PTEM Program
16 participants are doing and whether they are violating the terms of their release. In lieu of detention,
17 PTEM Program participants are being released into society. The four-way search condition supports
18 both the interests in public safety and the participants' return to court. As peace officers, members of
19 the San Francisco Sheriff's Office can only try to ensure public safety by trying to make sure PTEM
20 participants are not doing activities they are legally prohibited from doing and not possessing weapons
21 or other objects they are legally prohibited from possessing. Meanwhile, the four-way search condition
22 does not provide for any more intensive search, and for some participants provides for less intensive
23 searches, than PTEM Program participants would be subject to if the Superior Court directed they
24 remain detained pending trial. The GPS monitor is helpful in informing the San Francisco Sheriff's
25 Office about where PTEM Program participants are located but not what they are doing. The GPS
26 monitor does not have the power to determine non-location-based criminal activity. The search
27 condition can assist in identifying, for example, weapons, burglary tools for those charged with
28 burglary, and car keys for those who are prohibited from driving. The four-way search condition

1 relatedly sets PTEM Program participants up for success. When the participants have a clear set of
2 rules, they know that they need to abide by the terms of their release. The San Francisco Sheriff's
3 Office is looking for reasons for PTEM Program participants to succeed, and the four-way search
4 condition assists in that effort.

5 **INTERROGATORY NO. 13:**

6 State all facts supporting YOUR contention that Rule 13 of the PROGRAM RULES is
7 "necessary" to the EM PROGRAM, as stated in YOUR MOTION TO DISMISS.

8 **RESPONSE TO INTERROGATORY NO. 13:**

9 The City incorporates the foregoing Preliminary Statement and General Objections as though
10 fully set forth herein, including but not limited to its objections associated with the City not being an
11 appropriate defendant in this case or recipient of this interrogatory given that this litigation involves a
12 program that the San Francisco Sheriff's Office administers in its state capacity at the direction of the
13 Superior Court of the State of California and its objections associated with Plaintiffs lacking standing
14 to bring this lawsuit. Plaintiffs here seek information about the importance of a PTEM program rule
15 having decided not to challenge this program rule in front of the judges in their criminal cases. This
16 failure to raise the program rule with the criminal court suggests Plaintiffs and their counsel
17 understood the program rule to be part of the conditions of release from pretrial detention. The City
18 further objects that the interrogatory does not accurately quote the Motion to Dismiss. The City
19 responds with respect to its understanding of the importance of including Program Rule 13 as part of
20 the PTEM Program. The City additionally objects that this contention interrogatory is premature given
21 the current status of this case. The City responds with respect to its current understanding. Additional
22 relevant facts will emerge as this case continues. The City further objects to the extent the
23 interrogatory misrepresents the process by which participants in the criminal justice system in San
24 Francisco have conferred regarding the program rules. The City additionally objects to providing
25 privileged information in response to this interrogatory, including information subject to attorney-
26 client, work product, deliberative process, or official information privilege protections. The City also
27 objects to providing expert opinion evidence relevant to this interrogatory before the period for
28 disclosure of expert opinions.

1 Subject to and without waiving the foregoing objections, the City responds as follows: The
2 ability to share GPS location data for PTEM Program participants with other law enforcement
3 agencies is a powerful tool for public safety as well as ensuring return of PTEM Program participants
4 to court. Sharing of location data frequently leads to resolution of emergencies and investigations
5 involving PTEM Program participants. The sharing of GPS location data is very transparent. The San
6 Francisco Sheriff's Office requires a form and basis to permit sharing, and sharing is with other law
7 enforcement agencies. Sharing of GPS location data is an investigative tool similar to how law
8 enforcement might review security camera footage for an investigation.

9 **INTERROGATORY NO. 14:**

10 IDENTIFY YOUR policy or practice with respect to the deletion or retention of the location
11 data of current and former EM PROGRAM participants.

12 **RESPONSE TO INTERROGATORY NO. 14:**

13 The City incorporates the foregoing Preliminary Statement and General Objections as though
14 fully set forth herein, including but not limited to its objections associated with the City not being an
15 appropriate defendant in this case or recipient of this interrogatory given that this litigation involves a
16 program that the San Francisco Sheriff's Office administers in its state capacity at the direction of the
17 Superior Court of the State of California and its objections associated with Plaintiffs lacking standing
18 to bring this lawsuit. The City further objects that the Plaintiffs' definitions of "IDENTIFY" do not
19 make sense for this interrogatory except to the extent it would involve identification of document. The
20 City additionally objects that the interrogatory is potentially vague with respect to "location data" and
21 limits its response consistent with its understanding of the interrogatory to GPS data from Sentinel
22 ankle monitors pursuant to the PTEM Program. The City further objects that "YOUR" is vague in the
23 context of this interrogatory and responds with respect to the San Francisco Sheriff's Office. The City
24 additionally objects that "policy or practice with respect to the deletion or retention" is vague and
25 responds with respect to its retention policy for the referenced data.

26 Subject to and without waiving the foregoing objections, the City responds as follows: The San
27 Francisco Sheriff's Office's current policy for retention of PTEM location data held by Sentinel is
28 reflected in its contract with Sentinel. The burden of deriving or ascertaining the answer to this

interrogatory will be substantially the same for either party. *See* Fed. R. Civ. P. 33(d).

Dated: August 28, 2023

DAVID CHIU
City Attorney
JAMES F. HANNAWALT
Acting Chief Trial Deputy
ALEXANDER J. HOLTZMAN
JOSE A. ZELIDON-ZEPEDA
Deputy City Attorneys

By: /s/ Alexander J Holtzman
ALEXANDER J. HOLTZMAN

Attorneys for Defendants
CITY AND COUNTY OF SAN FRANCISCO, PAUL
MIYAMOTO, IN HIS OFFICIAL CAPACITY AS SAN
FRANCISCO SHERIFF

VERIFICATION

I, MICHELE FISHER, declare as follows:

I am a Chief Deputy Sheriff at the San Francisco Sheriff's Office. I am authorized to make this verification on behalf of the City and County of San Francisco. I have read and know the contents of Defendant City and County of San Francisco's Responses to Plaintiffs' Interrogatories, Set One.

Some of the matters stated in these responses are not within my personal knowledge, and there is no individual employee of the City and County of San Francisco who has personal knowledge of all such matters. These responses were prepared with the assistance of counsel, and these responses, subject to inadvertent and undiscovered errors, are based on and necessarily limited by the records and information still in existence, presently recollected, and thus far discovered in this case. The responses are true to the best of my knowledge, information, and belief.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 28th day of August 2023, at San Francisco, California.



CHIEF DEPUTY MICHELE FISHER

PROOF OF SERVICE

I, ANITA MURDOCK, declare as follows:

I am a citizen of the United States, over the age of eighteen years and not a party to the above-entitled action. I am employed at the City Attorney's Office of San Francisco, Fox Plaza Building, 1390 Market Street, Sixth Floor, San Francisco, CA 94102.

On August 28, 2023, I served the following document(s):

**DEFENDANT CITY AND COUNTY OF SAN FRANCISCO'S RESPONSES TO
PLAINTIFFS' INTERROGATORIES, SET ONE**

on the following persons at the locations specified:

Shilpi Agarwal, Esq.
Avram D. Frey, Esq.
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in the manner indicated below:



BY ELECTRONIC MAIL: I caused a copy of such document to be transmitted *via* electronic mail in portable document format ("PDF") Adobe Acrobat from the electronic address: anita.murdock@sfcityatty.org.

I declare under penalty of perjury pursuant to the laws of the State of California that the foregoing is true and correct.

Executed August 28, 2023, at Antioch, California.


ANITA MURDOCK